BILL NO. Z-76-10-39

ZONING MAP ORDINANCE NO. Z-23-76

AN ORDINANCE amending the City of Fort Wayne Zoning Map.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a "B1A" District under the terms of Chapter 36, Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and amendments thereof; and the symbols of the City of Fort Wayne Zoning Map (Codend) referred to therein, established by Section 9, Article III of said Chapter as amended, are hereby changed accordingly, to-wit:

Lot 9, Georgetown Area, Professional Village,

generally located south of East State Boulevard and east of the I & M easement.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

Councilman

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and ~~Public Hearing to be held after due legal notice, at the~~ Council Chambers, City County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M.,E.S.T.

DATE: 10-26-76 Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Nuckols, seconded by Hinga, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BURNS	✓				
HINGA	✓				
HUNTER	✓				
MOSES	✓				
NUCKOLS	✓				
SCHMIDT, D.	✓				
SCHMIDT, V.	✓				
STIER	✓				
TALARICO	✓				

DATE: 12-14-76 Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (~~GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)~~ ORDINANCE (~~RESOLUTION~~) No. Z-23-76 on the 14th day of Dec, 1976.

ATTEST: (SEAL)

Charles W. Westerman — James S. Stier
CITY CLERK — PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of Dec, 1976, at the hour of 11:00 o'clock A M.,E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 15th day of December, 1976, at the hour of 2:00 o'clock _____ M.,E.S.T.

Robert E. Armstrong
MAYOR

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on October 26, 1976, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-76-10-39; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 15, 1976;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 22, 1976.

Certified and signed this
3rd day of December, 1976.

Joseph N. Adair

Joseph N. Adair
Secretary

Bill No. Z-76-10-39

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance

amending the City of Fort Wayne Zoning Map

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance do PASS.

John Nuckols - Chairman

Paul M. Burns - Vice-Chairman

Vivian G. Schmidt

Winfield C. Moses, Jr.

Donald J. Schmidt

12-14-76 CONCURRED IN

DATE CHARLES W. WESTERMAN, CITY CLERK

BUSINESS FORM—PRODUCT OF WILSON JONES
GrayLine

RECEIPT

Date Oct. 5 1976 No. 6860

Received From Chimney Corners Inc.

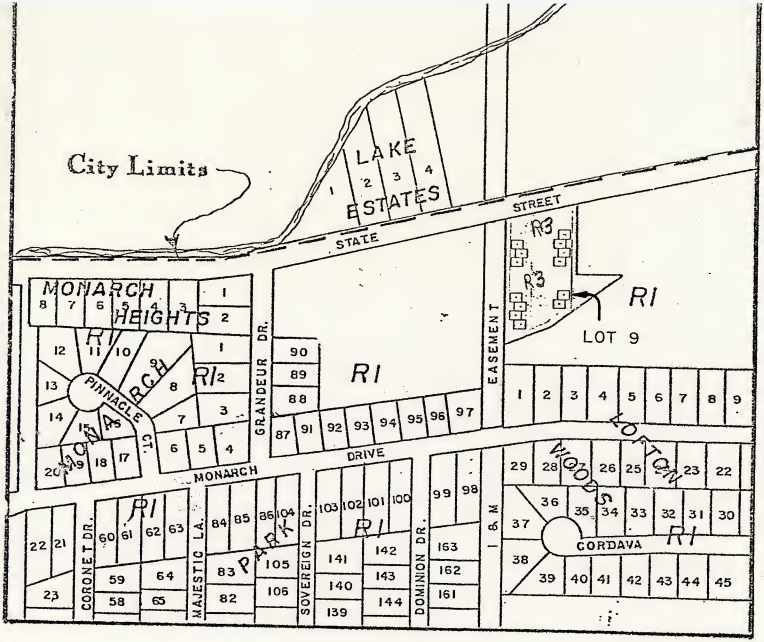
Address [redacted] 4484 Mill Rd.

Fifty Dollars Dollars $ 50 00

For Lyoning Fee

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT	50	00	CASH		
AMT. PAID	50	00	CHECK	50	00
BALANCE DUE	0	00	MONEY ORDER		

By Guy Butler



Lot # 9, Georgetown Area - Professional Village

Change from "R3" to "B1A"
10-6-76

Z-76-10-39

PETITION FOR ZONING ORDINANCE AMENDMENT

Receipt No. _____

TO: COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA

Date Filed _____

Intended Use BARBER STYLING SHOP

I/We CHIMNEY CORNERS, INC.
(Applicant's Name or Names)
do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne, Indiana, by reclassifying from a/an R-3 district to a/an B 1A district the property described as follows:

LOT 9, GEORGETOWN AREA PROFESSIONA VILLAGE

(Legal Description)

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

(Name)	(Address)	(Signature)
CHIMNEY CORNERS, INC	418 E. BERRY	[signature]

Legal Description Checked By: _____
(City Engineer)

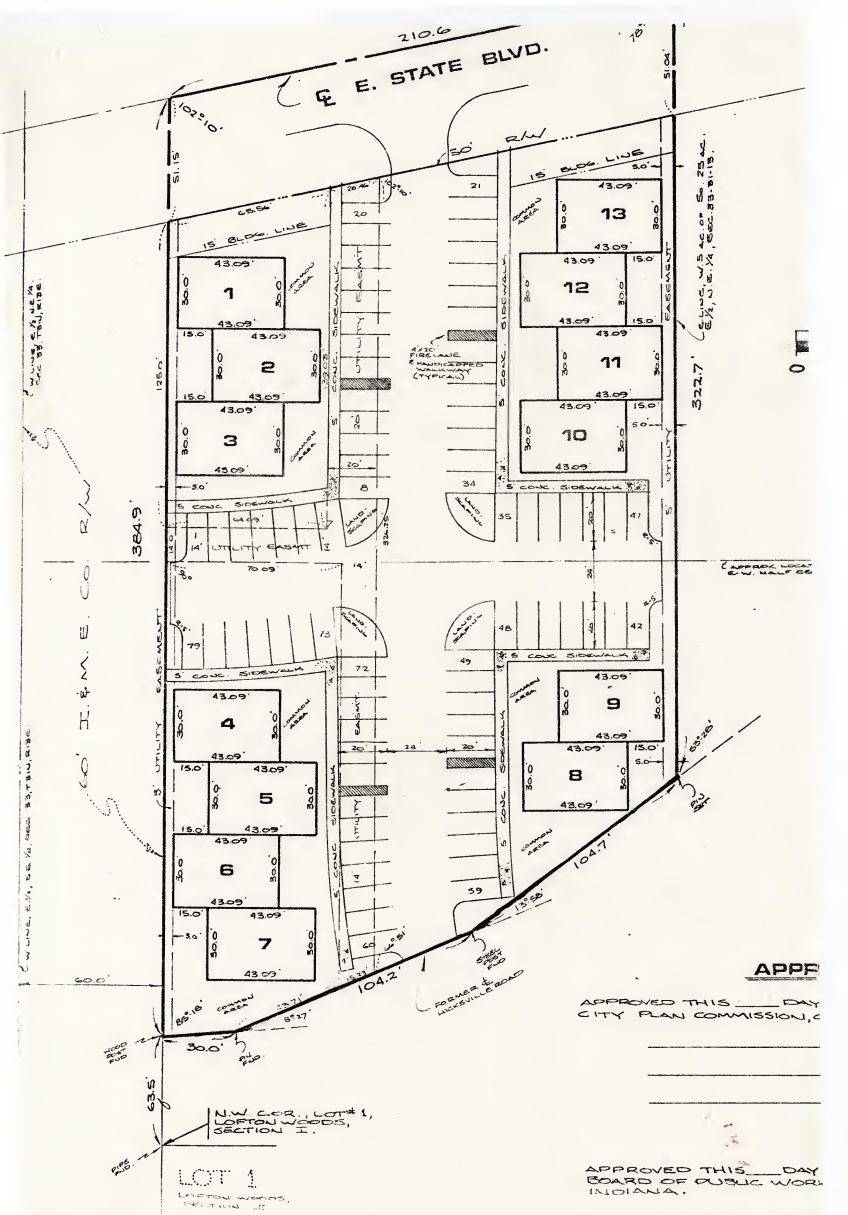
NOTE FOLLOWING RULES:

All requests for continuances or requests that ordinances be taken under advisement shall be filed in writing in the office of the City Plan Commission by noon on the Wednesday preceding the meeting of the City Plan Commission at which the ordinance is to be considered. If the request for a continuance or advisement is filed within the required time, the matter will not be put on the agenda for that meeting. It shall be the obligation of the petitioner to notify the same property owners which the Plan Commission had notified by mail that the hearing has been postponed or rescheduled and inform them of the time and place of the meeting at which the ordinance will be considered. All withdrawals of the ordinances must be made in writing prior to the Plan Commission's vote on the ordinance.

Name and address of preparer, attorney or agent:

(Name)	(Address)	(Telephone Number)
[signature]	418 E. BERRY	743-0378

CITY PLAN COMMISSION, CITY-COUNTY BUILDING, Room # 880, ONE MAIN STREET, FORT WAYNE, INDIANA, 46802 Telephone Number: 423-7571



NOTE: ALL LOT CORNERS HAVE BEEN ESTABLISHED WITH 1/2" DIA. X 30" IRON REINFORCING BARS.

DEVELOPER:

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
GEORGETOWN AREA PROFESSIONAL VILLAGE

Chimney Corners, Inc., an Indiana Corporation (hereinafter referred to as "Declarant") hereby declares that it is the Owner of the following described real estate in Allen County, Indiana, to-wit:

Part of that part of the East Half of the Southeast Quarter of Section 33, Township 31 North, Range 13 East lying North of the centerline of the former Hicksville Road together with all of that part of the West 5 acres of the South 25 acres of the East Half of the Northeast Quarter of said Section 33, lying South of the centerline of the pavement of East State Boulevard, excepting from the above described total tract the Westerly 60 feet for right-of-way for the Indiana and Michigan Electric Company, all being more particularly described as follows, to wit:

Commencing at the Northwest corner of Lot #1 in Lofton Woods, Section I, a subdivision in the East Half of the East Half of Section 33, Township 31 North, Range 13 East, Allen County, Indiana; thence Northerly, on and along the East line of said Indiana and Michigan Electric Company 60 foot right-of-way 63.5 feet to a wood post found, said wood post being the true point of beginning; thence Northeasterly, by a deflection angle right of 85 degrees 18 minutes (recorded 82 degrees 23 minutes) on and along an existing line fence, said line fence marking the former centerline of the Hicksville Road, a distance of 30.0 feet to an iron pin found; thence Northeasterly by a deflection angle left of 18 degrees 27 minutes (recorded 15 degrees 29 minutes), on and along said line fence, 104.2 feet (recorded 103 feet) to a broken off steel fence post found; thence Northeasterly, by a deflection angle left of 13 degrees 58 minutes (recorded 14 degrees 42 minutes), on and along said line fence, 104.7 feet to the Southerly projection of the East line of the West 5 acres of the South 25 acres of the East Half of the Northeast Quarter of said Section 33; thence Northerly by a deflection angle left of 53 degrees 28 minutes, on and along said Southerly projection and said East line, 322.7 feet to the centerline of East State Boulevard; thence Southwesterly by an interior angle of 78 degrees 25 minutes, on and along said centerline, 210.6 feet to the East line of said Indiana and Michigan Electric Company right-of-way; thence Southerly, by an interior angle of 102 degrees 10 minutes, on and along said East line, 384.9 feet to the true point of beginning, containing 1.749 acres of land, subject to legal right-of-way for East State Boulevard.

and does hereby lay off, plat, and subdivide said real estate in accordance with the information shown on the plat, being the certified plat appended hereto and incorporated herein. The subdivision shall be known and designated as GEORGETOWN AREA PROFESSIONAL VILLAGE, a Subdivision in St. Joseph Township, Allen County, Indiana.

The lots are numbered from 1 through 13 inclusive, and all dimensions are shown in feet and decimals of a foot on the plat.

All of the properties in said subdivision shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their successors and assigns, and shall inure to the benefit of each owner thereof. The owner or owners, present or future, of any land or lot included in said subdivision shall be entitled to injunctive relief against any violation, or attempted violation, of the provisions hereof, and also damages for any injuries resulting from any violation thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Georgetown Area Professional Village Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) within the Properties for the common use and enjoyment of the owners of the Properties, their customers, clients, invitees, and employees. The Common Area is described as follows:

> All parking areas, sidewalks, court yards, and landscaped areas as shown on the plat (i.e., all area shown on the plat other than the designated "Lots").

The Common Area shall be initially owned by Declarant, and maintained by the Association. At such time as each of the lots herein have been sold and the buildings erected thereon, or sooner if Declarant so desires, the Declarant shall execute and deliver a deed to the Association for all of the Common Area.

The Common Area is not dedicated hereby for use by the general public, but is dedicated to the common use and enjoyment of the lot owners of Georgetown Area Professional Village.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Chimney Corners, Inc., its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of the members has been recorded.

(c) No owner of a lot shall permit the use of the Common Area for the purpose of interfering with the peaceful and quiet enjoyment of said Common Area by the other lot owners, nor shall any lot owner unreasonably permit the overuse of the parking areas by any customers, employees, or tenants to the point that it excludes the use of the parking areas for the use by other owners, tenants, and their guests, employees, clients, and invitees.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to his customers, clients, invitees, and employees.

ARTICLE III

GEORGETOWN AREA PROFESSIONAL VILLAGE ASSOCIATION

Section 1. Membership. The Declarant shall cause an Indiana not-for profit corporation to be formed with the name "Georgetown Area Professional Village Association, Inc.", hereinafter referred to as the Association. The owner of each lot in the subdivision shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot.

Section 2. Voting Rights. The owners of the lots shall be entitled to one vote for each lot owned. When more than one person holds an

interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 3. Responsibilities.

(a) The affairs of the Association shall be conducted by a Board of Directors, as provided for in the By-Laws, all of whom must be owners of lots in the Properties. In addition to the duties imposed by the By-Laws, the Association shall have the responsibility and authority for the proper maintenance, repair, and landscaping of the Common Area in the Properties. Such responsibility shall include, but not necessarily be limited to, the following: (1) upkeep and maintenance of the lawn and landscaped areas, (2) removal of snow and ice from, and the proper upkeep and maintenance of, the sidewalks and parking areas, (3) the installation, maintenance and operation of lights, if such installation is approved by the owners of a majority of the lots, (4) trash removal, and (5) collection of assessments from owners.

(b) In the event an owner of any lot in the subdivision shall fail to maintain the premises and/or the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessments to which such lot is subject.

(c) The Association may make contracts to carry out its responsibilities and shall have power to pay taxes and other charges on land and other property owned by it from time to time.

Section 4. Assessments. From time to time the Association shall make an assessment upon each lot in the Addition for the payment of the expenses incurred in carrying out its responsibilities, in an amount equal to the sum obtained by dividing such expenses by the number of lots in the Addition. The Association may also make assessments on each lot in the Addition in order to raise funds in advance to enable the Association to perform its responsibilities.

Section 5. Lien for Lot Assessments and Payment. Assessments against a lot in the Addition pursuant to the preceding paragraph shall be payable by the owner thereof to the Treasurer of the Association within 30 days from the time that notice of such assessment has been mailed to the owner. Each assessment shall be and remain a lien upon the lot until full payment thereof, subject only to first mortgages, real estate taxes, public improvement assessments, and easements created thereby. All payments of assessments shall be noted on the books of the Association and, on request, the Treasurer or other authorized officer of the Association shall furnish to

any owner of a lot in the Addition a certificate showing whether any assessment against any lot remains unpaid or has been paid. Such certificate may be relied upon by the lot owner, any prospective purchaser and any mortgagee. The lien of any past-due assessment may be foreclosed in the same manner as mortgages are foreclosed. Assessments shall be payable without relief from valuation and appraisement laws and with reasonable attorney fees. Recordation of the Certificate of Incorporation of said Association shall be notice that any such lien may exist.

ARTICLE IV

ARCHITECTURAL CONTROL

Section 1. Approval of Improvements. All improvements shall be constructed in accordance with the plans and specifications therefor, as prepared by Conrad Jankowski, Registered Architect, including a plot plan showing the location of the proposed construction, placement or alteration and its grade elevation on the lot. No deviation may be made without the written consent of the Declarant or its designated representative.

Section 2. Approval of Builder. The builder of any improvements upon any lot must be approved by the Declarant or its designated representative.

Section 3. Approval of Signs. No sign or other exterior advertisement shall be erected until said sign or advertisement has been submitted to and approved by the Declarant or its designated representative.

Section 4. Manner of Approval. The Declarant, or its designated representative, shall approve or disapprove construction plans and specifications and locations of structures as provided in this Article IV. The Declarant's approval or disapproval shall be in writing. If the Declarant or its designated representative fails to approve or disapprove them, as required by these provisions, within ninety (90) days after the plans and specifications and plot plan have been submitted to it, and if no suit to enjoin the construction is commenced prior to the issuance of an occupancy certificate, approval will not be required and the applicable provisions hereof shall be deemed to have been fully complied with.

ARTICLE V

BUILDING LINES AND EASEMENTS

Section 1. Size and Position of Building. No building shall be allowed on said lot unless its exterior dimensions are exactly uniform with the plat, thereby providing for a "zero" building setback requirement on all 4 sides.

Section 2. Utility Easements. Utility easements in the Common Area are reserved for use by municipal, public and quasi-public

utilities and by Declarant and its successors and assigns, for the installation, construction, maintenance, operation, servicing, repair, removal and replacement of (i) poles, wires and conduits, and the necessary and proper attachments in connection therewith, for the transmission of electricity for light, power, telephone and other purposes, (ii) surface and storm water sewers and drains, (iii) sanitary sewers, (iv) pipe lines for supplying gas, water and heat, and (v) for any other municipal, public, or quasi-public utility, subject to reasonable regulation by any governmental body having jurisdiction and also subject to the obligation of any utility which installs plants to repair and return the pavement of the parking lot or the sidewalks in the Common Area to at least as good a condition as existed prior to such work.

Section 3. Ingress and Egress Easement. The undersigned and its successors in interest, do hereby grant, dedicate and convey to their invitees and all public and quasi-public parties, including by way of illustration and not by way of limitation, emergency vehicles, U.S. postal delivery vehicles, and public utility vehicles, a perpetual right of easement for purposes of ingress and egress over and across the parking lot areas as designated on the plat.

Section 4. Decorative License. By acceptance and recordation of a deed, each lot owner shall grant a license to Georgetown Area Professional Village Association, Inc. to permit landscaping and other decorative devices to touch or attach to the exterior of the buildings erected on each of the lots.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the building upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes

the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Use. All lots in the Properties shall be used only for office purposes. No more than one building, to be used solely in connection with such office use and not in violation of the other provisions of these restrictions, shall be constructed or maintained on a lot.

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 3. Animals. No animal of any kind shall be kept, raised or bred on any lot.

Section 4. Storage Tanks. All fuel and other storage tanks shall be installed underground or concealed within the office building.

Section 5. No Hunting, Shooting or Trapping. No hunting, shooting, or trapping shall be allowed on the Properties.

Section 6. Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other refuse or debris and the same shall not be kept except in sanitary containers while awaiting removal from the premises. All equipment for storage or disposal of such material shall be kept in a cleam and sanitary condition and shall either be located within the office building or underground or shall be fully screened from public view by an appropriate fence or screen.

Section 7. Completion of Utilities Before Occupation. All drainage and utility improvements serving a lot which are required by the plans and specifications filed by the Declarant with the City of Fort Wayne Plan Commission shall be installed before any office building on that lot in the Properties is used or occupied.

Section 8. Compliance with Zoning Laws. Before any lot may be used and occupied such user or occupier shall first obtain from the appli-

cable governmental authority such improvement location and/or occupancy permits as may be required by applicable zoning or other ordinances.

Section 9. Duration and Alteration.

(a) These protective covenants, restrictions and limitations shall be construed as and shall be covenants running with the land and shall be binding upon all owners of any land within the Properties and all persons claiming under them; and except as provided in subparagraph (b) below, shall continue in existence for a period of 25 years from the date of the recording hereof and thereafter shall be automatically extended for successive periods of 10 years each; provided, however, that nothing contained in this paragraph shall limit or alter in any way whatsoever any right, statutory or otherwise, to vacate the plat or any portion thereof.

(b) These protective covenants, restrictions and limitations (but not the public utility easements) may be changed or abolished in whole or in part and at any time by the written agreement of all of the owners of at least 85% of the lots; subject in each case, however, to such approvals of governmental authorities as may be required by law at any time. The provisions of any amendment shall become effective upon the recording of a copy of the agreement making such amendment in the Office of the Recorder of Allen County, Indiana.

Section 10. Investigation and Compliance. The Declarant and the Board of Directors of the Association shall have the right of access to all lots at all times and in a reasonable manner to investigate and determine compliance with the provisions of these covenants.

Section 11. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 12. Severability. Invalidation of any one of these provisions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 21st day of October, 1976.

CHIMNEY CORNERS, INC.

By: _____
Robert L. Meister, Secretary

By: _____
Robert C. Hurbanis, President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, this 21st day of October, 1976, personally appeared Robert C. Hurbanis and Robert L. Meister, President and Secretary respectively of Chimney Corners, Inc., to me known to be such officers of said Corporation, and acknowledged the execution of the foregoing for and on behalf of said Corporation, and by its authority. Witness my hand and notarial seal.

My Commission Expires:
January 8, 1977

Carol L. Gilbert
Carol L. Gilbert, Notary Public

This instrument prepared by: William D. Swift, Attorney, 590 Lincoln Tower, Fort Wayne, Indiana 46802

HIGGINS, SWIFT & WEINRAUB
A PROFESSIONAL CORPORATION
ATTORNEYS & COUNSELORS AT LAW
LINCOLN TOWER
FORT WAYNE, INDIANA 46802

WILLIAM D. SWIFT
CHARLES J. WEINRAUB
ROBERT H. CARPENTER
W. MICHAEL HORTON

FRANK A. HIGGINS 1976

TELEPHONE
219 - 423-4422

November 22, 1976

Plan Commission
City of Fort Wayne
8th Floor, City-County Building
One Main Street
Fort Wayne, Indiana 46802

Re: Bill No. Z-76-10-39
Lot 9 Georgetown Area Professional Village

Gentlemen:

Enclosed is a copy of the proposed amendment to the restrictive covenants, to provide a method of enforcing the covenant that Lot 9 would not be used for any purpose other than office or barber shop. Also enclosed is a complete set of the restrictive covenants for your review, showing that the restrictions cannot be amended without Plan Commission approval.

I would like to reiterate the fact that the proposed use is compatible with the office use contemplated for the adjoining lots and is not a type of use that would expose the area to "creeping commercialism". We can flatly state that the other lots would be used for office purposes compatible with the existing zoning. You can see by the restrictions that the property will not be used for multi-family uses, which is is accordance with our agreement if the property is rezoned to "R-3".

Since this property has already been sold to the barbers, we would prefer that this request by handled in the manner so suggested rather than awaiting an amendment to the Zoning Ordinance providing for use variances.

It is our opinion that we have undertaken to provide adequate controls and restrictions to enforce the non-commercial nature of the project.

Yours very truly,

William D. Swift

WDS/clg
Enclosures

ARTICLE VII

GENERAL PROVISIONS

Section 1. Use. All lots in the Properties shall be used only for office purposes, with the exception of Lot Number 9 which shall be used only for office purposes or for a barber shop. No more than one building, to be used solely in connection with such use and not in violation of the other provisions of these restrictions, shall be constructed or maintained on a lot.

Number assigned by Bill Salin's office: # 3372 Admn. Appr.

DIGEST SHEET

Z-76-10-39

TITLE OF ORDINANCE Zoning Map Amendment Ordinance

DEPARTMENT REQUESTING ORDINANCE CITY PLAN COMMISSION

SYNOPSIS OF ORDINANCE Petitioners are requesting the rezoning of the following described property:

Lot # 9, Georgetown Area - Professional Village -- generally located south of East State Blvd., and east of the I & M Easement

From "R3" to "B1A"

EFFECT OF PASSAGE Property is presently zoned "R3" - which is multiple family residential, but does permit offices, following approval by the Board of Zoning Appeals. Petitioners are requesting a "B1A" District - Limited Business.

EFFECT OF NON-PASSAGE Property would remain an "R3"

MONEY INVOLVED (Direct Costs, Expenditures, Savings) none

ASSIGNED TO COMMITTEE (J.N.) Regulations Jetter

THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

room 122

charles w. westerman, clerk

December 16, 1976

Miss Helen Libbing
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates of December 20 & 27, 1976, in both the News Sentinel and the Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, Indiana

Bill No. Z-76-09-10
Zoning Map No. Z-22-76

Bill No. Z-76-10-39
Zoning Map No.Z-23-76

Bill No. Z-76-09-08
Zoning Map No. Z-21-76

Please send us (5) five copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely,

Charles W. Westerman

Charles W. Westerman
City Clerk

CWW/ne
ENCL: 3

AN EQUAL OPPORTUNITY EMPLOYER

© F.W.B.C. 1974

Form Prescribed by State Board of Accounts

Fort Wayne Common Council
(Governmental Unit)

Allen County, Ind.

To THE NEWS-SENTINEL Dr.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display	Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines	
Head	number of lines	
Body	number of lines	85
Tail	number of lines	2
	Total number of lines in notice	87

COMPUTATION OF CHARGES

87 lines, 1 columns wide equals 87 equivalent lines at 25¾¢ cents per line	$ 22.53
Additional charge for notices containing rule or tabular work (50 per cent of above amount)	
Charge for extra proofs of publication (50 cents for each proof in excess of two)	1.50
TOTAL AMOUNT OF CLAIM	$ 24.03

DATA FOR COMPUTING COST

Width of single column 11 ems 9.9 Size of type 5½ point

Number of insertions 2 & Size of quad upon which type is cast 5½

ovision and penalties of Ch. 89, Acts 1967,

t the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just part of the same has been paid.

V. E. Gerken

27, 19 76 Title CLERK

Notice is hereby given that on the 14th day of December, 1976, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. Z-76-10-39 Z-23-76 Zoning Map Ordinance, to-wit:

BILL NO. Z-76-10-39
ZONING MAP ORDINANCE
NO. Z-23-76

AN ORDINANCE amending the City of Fort Wayne Zoning Map.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a "B1A" District under the terms of Chapter 36, Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and amendments thereof; and the symbols of the City of Fort Wayne Zoning Map referred to therein, established by Section 9, Article III of said Chapter as amended, are hereby changed accordingly, to wit:

Lot 9, Georgetown Area, Professional Village, generally located south of East State Boulevard and east of the I&M easement.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

PAUL BURNS,
Councilman

Read the third time in full and on motion by Nuckols, seconded by Hinga, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine - Burns, Hinga, Hunter, Moses, Nuckols, D. Schmidt, V. Schmidt, Stier, Talarico
Nays: None
Date: 12-14-76

Charles W. Westerman
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Zoning Map Ordinance No. Z-23-76 on the 14th day of December, 1976.

Charles W. Westerman
City Clerk
James S. Stier
Presiding Officer

Presented by me to, the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1976, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westerman
City Clerk

Approved and signed by me this 15th day of December, 1976, at the hour of 2:00 o'clock P.M., E.S.T.

Robert E. Armstrong
Mayor

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of Zoning Map Ordinance No. Z-23-76 passed by the Common Council on the 14th day of December, 1976, and that said Ordinance was duly signed and approved by the Mayor on the 15th day of December, 1976 and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 15th day of December, 1976.

CHARLES W. WESTERMAN
CITY CLERK

12/20-27

H COPY OF
SEMENT HERE

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN who, being duly sworn, says that she is CLERK of the NEWS-SENTINEL a DAILY newspaper of general circulation printed and published in the English language in the city ~~town~~ of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s, the dates of publication being as follows:

12/20-27/76

V. E. Gerken

Subscribed and sworn to before me this 27th day of December, 1976

Notary Public

My commission expires September 28, 1979

Form Prescribed by State Board of Accounts

Fort Wayne Common Council
(Governmental Unit)

Allen County, Ind.

To THE NEWS-SENTINEL Dr.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

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Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

V. E. Gerken

Date December 27, 19 76 — Title CLERK

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EMENT HERE

Presiding Officer
Presented by me to, the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1976, at the hour of 11:00 o'clock A.M., E.S.T.
Charles W. Westerman
City Clerk
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Robert E. Armstrong
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CITY CLERK

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Notary Public

My commission expires September 28, 1979

Form Prescribed by State Board of Accounts

General Form No. 99 P (Rev. 1967)

Ft. Wayne Common Council
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

County, Ind.

FORT WAYNE, INDIANA

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Arvilla Dewald

...27, 19 76

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BILL NO. Z-76-10-39
ZONING MAP ORDINANCE
NO. Z-23-76

AN ORDINANCE amending the City of Fort Wayne Zoning Map.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a "B1A" District under the terms of Chapter 36, Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2036 and amendments thereof; and the symbols of the City of Fort Wayne Zoning Map referred to therein, established by Section 9, Article III of said Chapter as amended, are hereby changed accordingly, to-wit:

Lot 9, Georgetown Area, Professional Village, generally located south of East State Boulevard and east of the I&M easement.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

PAUL BURNS,
Councilman

Read the third time in full and on motion by Nuckols, seconded by Hinga, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine Burns, Hinga, Hunter, Moses, Nuckols, O Schmidt, V. Schmidt, Stier, Talarico
Nays: None
Date: 12-14-76

Charles W. Westerman
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Zoning Map Ordinance No. Z-23-76 on the 14th day of December, 1976.

Charles W. Westerman
City Clerk
James S. Stier
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1976, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westerman
City Clerk

Approved and signed by me this 15th day of December, 1976, at the hour of 2:00 o'clock P.M., E.S.T.

Robert E. Armstrong
Mayor

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of Zoning Map Ordinance No. Z-23-76 passed by the Common Council on the 14th day of December, 1976, and that said Ordinance was duly signed and approved by the Mayor on the 15th day of December, 1976 and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 15th day of December, 1976.

CHARLES W. WESTERMAN
CITY CLERK

12/20-27

COPY OF
...EMENT HERE

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the JOURNAL-GAZETTE a DAILY newspaper of general circulation printed and published in the English language in the city/town of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time S, the dates of publication being as follows:

12/20-27/76

Arvilla Dewald

Subscribed and sworn to before me this 27th day of December, 1976

Harry ...
Notary Public

My commission expires September 28, 1979

Form Prescribed by State Board of Accounts

General Form No. 99 P (Rev. 1967)

Ft. Wayne Common Council
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

County, Ind.

FORT WAYNE, INDIANA

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Arvilla Dewald

Date December 27, 19 76

Title CLERK

COPY OF
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Charles W. Westerman
City Cleerk
James S. Stier
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1976, at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westerman
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CHARLES W. WESTERMAN
CITY CLERK

12/20 27

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State of Indiana
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Arvilla Dewald

Subscribed and sworn to before me this 27th day of December, 19 76

Notary Public

My commission expires September 28, 1979